

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0521-07
Bill No.: Truly Agreed To and Finally Passed HCS for SS No. 2 for SCS for SB 62
Subject: Health Care; Health Care Professionals; Federal-State Relations; Medicaid;
Nursing and Boarding Homes; Ambulance Districts
Type: Original
Date: June 17, 2011

Bill Summary: This legislation allows providers to include any retrieval fee for outsourced records storage service in the fee for release of medical records.

This legislation extends the sunset dates of various federal reimbursement allowances from 2011 to 2016. This legislation will sunset on September 30, 2016.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Could Exceed \$100,000)	(Could Exceed \$100,000)	(Could Exceed \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Could Exceed \$100,000)	(Could Exceed \$100,000)	(Could Exceed \$100,000)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 16 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Ambulance Provider Tax Fund*	\$0	\$0	\$0
Nursing Facility Reimbursement Allowance Tax Fund**	\$0	\$0	\$0
Managed Care Provider Tax Fund***	\$0	\$0	\$0
Hospital Reimbursement Allowance Fund****	\$0	\$0	\$0
Pharmacy Provider Tax Fund*****	\$0	\$0	\$0
ICF/MR Provider Tax Fund*****	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

*Revenues and expenditures of approximately \$9,100,000 net to \$0.

**Revenues and expenditures of approximately \$138,900,000 net to \$0.

***Revenues and expenditures of approximately Unknown net to \$0.

****Revenues and expenditures of up to approximately \$919,000,000 net to \$0.

*****Revenues and expenditures of approximately \$96,500,000 net to \$0.

*****Revenues and expenditures of approximately \$2,400,000 net to \$0.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Federal Fund*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

*Income and cost would net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 191.227:

Officials from the **Department of Insurance, Financial Institutions and Professional Registration, Department of Highways and Transportation, Missouri Consolidated Health Care Plan, Department of Conservation, Missouri State Highway Patrol, and the Department of Social Services-Research and Evaluation (R&E)** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Department of Mental Health** state the Department projects that costs for these fees would be minimal and absorbed in existing appropriations. No fiscal impact.

In response to a previous version of this proposal, officials from the **University of Missouri** assume no significant revenue, no costs and no losses.

Officials from the **Department of Health and Senior Services (DHSS)** states various programs throughout the DHSS are required to obtain copies of medical records for various reasons such as verifying eligibility for services, periodically reviewing medical conditions, etc. With this change, the Department could potentially see an increase in the amounts that would be reimbursed to providers that supply medical records.

The Department assumes that the number of medical records obtained from off-site records storage and electronic or digital format is unknown, but expected to be minimal. As a result, the Department assumes a fiscal impact of (\$0 to Unknown, < \$100,000).

Oversight assumes, because the potential for increase in medical record fees is speculative, that the DHSS will not incur significant costs related to this proposal. If a fiscal impact were to result, the DHSS may request additional funding through the appropriations process.

Officials from the **Department of Social Services-Children's Division (CD)** assume the CD does not anticipate a significant fiscal impact as the result of this proposed legislation. Any increase would be minimal and be absorbed by the Division.

ASSUMPTION (continued)

Officials from the **Department of Social Services-MO HealthNet Division (MHD)** assume in some instances, the MHD would have to pay the off-site retrieval fee. In addition, the copying cost for paper records has been increased. In FY09, only six providers billed MO HealthNet for medical records. In FY10, nine providers billed MO HealthNet for medical records. Therefore, the increased cost is expected to be minimal and it is assumed the cost would be covered by the current appropriation.

Officials from the **Department of Social Services-Division of Legal Services (DLS)** state current law allows a health care provider to condition the furnishing of medical records on the payment of a fee to cover costs of copying, postage and notary services. The legislation would amend current law to also include a retrieval fee charged by an outsourced records storage service with which the health care provider has contracted for off-site records storage and management in the fee medical care providers can charge in providing medical records. The retrieval fee is limited to "not more than twenty-one dollars and thirty-six cents plus fifty cents per page for the cost of supplies and labor plus, if the health care provider has contracted for off-site records storage and management, any additional labor costs of outside storage retrieval, not to exceed twenty dollars, as adjusted annually" pursuant to statute. Further, if the health care provider stores records in an electronic or digital format, and provides the requested records in an electronic or digital format, they are authorized to charge not more than five dollars plus fifty cents per page or twenty-five dollars total, whichever is less. Moreover, the health care provider is also authorized to charge the requester for any applicable postage fee and/or notary fee not to exceed two dollars associated with their request. The DLS regularly obtains medical records in the course of its investigations and litigation and therefore the potential fiscal impact upon DLS could be substantial. Unknown Greater than \$100,000.

Oversight assumes, because the potential for increase in medical record fees is speculative, that the DLS will not incur significant costs related to this proposal. Also, Oversight believes DLS could access medical records from FSD. If a fiscal impact were to result, the DLS may request additional funding through the appropriations process.

Officials from the **Department of Social Services-Family Support Division (FSD)** state FSD reviews the health care records of an average of 4,131 applicants and recipients each month to determine initial or continued eligibility for the Temporary Assistance and MO HealthNet programs. These reviews may contain information from one or more health care providers; however, the FSD is unable to determine how many separate health care records are obtained per month. The FSD is not able to determine the number of health care records that would be obtained from health care providers utilizing off-site records storage services. For the purposes

ASSUMPTION (continued)

of this fiscal note, the FSD assumes one health care record per review for a total of 49,572 (4,131 x 12) health care records obtained per year. If 10% of these records were obtained from health care providers that use an off-site records storage service, the FSD would incur retrieval costs for 4,957 health care records per year.

Based on cost data available for two health care records retrieval companies, the average retrieval cost per record is \$31.48 ($\$29.95 + \$33.00 = \$62.95 / 2 = 31.475$, rounded up to \$31.48). However, this legislation limits the retrieval fee to twenty dollars (\$20.00). At this cost per record, the FSD would incur additional costs of \$99,140 ($4,957 \times \20.00) to obtain health care records.

Therefore, the FSD anticipates the cost of this proposed bill to be unknown but greater than \$99,140.

Oversight assumes, because the potential for increase in medical record fees is speculative, that the FSD will not incur significant costs related to this proposal. Therefore, Oversight, has for fiscal note purpose only removed the language “unknown but greater than” and replaced the language with “up to”. If a greater fiscal impact were to result, the FSD may request additional funding through the appropriations process.

Sections 190.839, 198.439, 208.437, 208.480, 338.550 & 633.401:

Officials from the **Department of Health and Senior Services, Department of Revenue, Missouri State Treasurer** and the **Office of Administration-Budget and Planning** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Office of Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year’s legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (continued)

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

In response to a previous version of this proposal, officials from the **Department of Mental Health (DMH)** states the proposed legislation extends the sunset date of various federal reimbursement allowances from 2011 to 2016. Included in this proposal is the extension for the provider assessment for ICF/MR's for five years. If this sunset is extended, there would be no impact to The Department of Mental Health. If this legislation does not pass and the date does sunset, DMH would lose approximately \$2.7 million in General Revenue and \$4.7 million in Federal funding for next year.

The section of this legislation pertaining to the Hospital program RSMo 208.453 has no extension of the sunset date. If the provider assessment is similar to last year's amount, then the Department of Mental Health would lose approximately \$14.8 million in additional revenues (\$9.4 million federal, \$5.4 million general revenue) . Therefore, the DMH estimates a cost of \$5.4 million in general revenue and \$9.4 million in federal funds.

Oversight notes that the Department of Social Services (DSS) is the contact Department that works with the Federal government on Medicaid programs. Therefore, Oversight has decided to use DSS provider tax numbers for the ICF/MR provider tax program.

Officials from the **Department of Social Services - MO HealthNet Division (MHD)** stated the proposed legislation grants a four-year extension for the Managed Care Organization Reimbursement Allowance, the Hospital Federal Reimbursement Allowance, the Ambulance Provider Tax, the Pharmacy Tax, the ICF/MR tax program and the Nursing Facility Reimbursement Allowance Tax.

Section 190.839 - Ambulance Provider Tax:

MHD is not currently collecting the Ambulance Provider Tax. Upon federal approval, it is anticipated MHD will collect \$9,069,225 in ambulance tax.

ASSUMPTION (continued)

Section 198.439 - Nursing Facility Reimbursement Allowance Tax:

The proposed legislation allows the MHD to collect \$138,901,260 in Nursing Facility Tax, which will allow MHD to draw in federal funds of \$240,700,000 in fiscal year 2012. The FY 12 budget submitted by the DSS assumed the nursing facility tax would continue through fiscal year 2012. If this proposed legislation is not signed, additional General Revenue funds of \$138,901,260 would be needed to continue the current level of services and provider rates.

Section 208.437 – Managed Care Provider Tax:

The MHD is not currently collecting the Managed Care Provider Tax. The federal sunset for the managed care organization reimbursement allowance was September 30, 2009. This section of the proposed legislation will not have an impact on MO HealthNet. However, in the event there is a change at the federal level, the sunset extension allows Medicaid managed care organizations the option to participate in the reimbursement allowance immediately.

Section 208.480 – Hospital Reimbursement Allowance:

The proposed legislation allowed the MHD to collect \$919,155,726, in Hospital tax, which would allow MHD to draw in federal funds of \$1,605,650,553 in fiscal year 2012. The FY 12 budget submitted by the DSS assumed that the hospital tax would continue through fiscal year 2012. If this legislation is not signed, additional General Revenue funds of \$919,155,726 would be needed to continue the current level of services and provider rates.

Section 338.550 – Pharmacy Provider Tax:

The proposed legislation allows the MHD to collect \$96,500,000 in pharmacy tax, which will allow DMS to draw in federal funds of \$167,300,000 in fiscal year 2012. The FY 12 budget submitted by the DSS assumed the pharmacy tax would continue through fiscal year 2012. If this legislation is not signed, additional General Revenue funds of \$55,553,508 would be needed to continue the current level of services and provider rates. The remaining \$41,000,000 would be the amount from no longer paying the enhanced dispensing fees.

Section 633.401 - ICF/MR Provider Tax:

The proposed legislation allows the MHD to collect \$2,381,683 in intermediate care facilities for the mentally retarded tax, which will allow MHD to draw in federal funds of \$4,106,149 in fiscal year 2012. The FY 12 budget submitted by the Department of Mental Health assumed the intermediate care facilities for the mentally retarded tax would continue through fiscal year 2012. If this legislation is not signed, the federal earnings of \$4,106,149 would need to be replaced in order to continue the current level of services in the community programs that are the beneficiary of these funds.

ASSUMPTION (continued)

Section 376.1190:

Officials from the **Department of Insurance, Financial Institutions and Professional Registration, Department of Highways and Transportation, Missouri Consolidated Health Care Plan, Department of Conservation, and the Missouri State Highway Patrol** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Department of Social Services-MO HealthNet Division (MHD)** states the language in this section states that every health carrier and health benefit plan, as defined in section 376.1350, shall, by July 1, 2014, utilize, at a minimum, a web-based estimating system or other mechanism to provide estimates of the total cost and total out-of-pocket cost for health services. The MHD assumes that since there is no specific exemption for contracts with the state, the legislation will pertain to HMOs that contract with the state to provide health benefits to MO HealthNet Managed Care participants.

MHD recognizes there may be additional costs of doing business for HMOs if this legislation passes and that those costs may be passed on to the MHD. MHD may incur additional costs for an actuarial analysis to determine if capitated rates should be adjusted for the additional costs incurred by the HMO.

If an actuarial analysis is needed it will occur in the first year and is a one-time cost. The cost of the analysis will depend on the number of program changes that will need to be analyzed as well as the complexity of those changes. This cost is unknown but may be as high as \$100,000. Since this is an administrative cost there will be a 50% federal match rate.

FY12: Total cost is unknown < \$100,000 (GR unknown < \$50,000)

FY13: Total cost is unknown

FY14: Total cost is unknown

Oversight assumes, because the potential for increase of contract amounts is speculative, that the MHD will not incur significant costs related to this proposal. If a fiscal impact were to result, the MHD may request additional funding through the appropriations process.

Officials from the **Joint Committee on Legislative Research-Oversight Division** assumes for this proposal that the actuarial analysis of the cost impact to private and public payers of any new or revised mandated health care benefit proposed by the General Assembly would be a new cost to the Division. Oversight assumes the actuarial cost impact would be calculated on each piece

ASSUMPTION (continued)

of legislation that is introduced during a legislative session. Oversight assumes that these actuarial cost impact statements would be performed by an outside actuarial firm. Cost estimates ranged from \$2,000 to \$5,000 per analysis. Oversight determined that there were approximately thirty-three proposals during the 2011 legislative session that would need an actuarial analysis of the cost impact statement. Using an average cost of \$3,500 per statement, Oversight assumes an unknown cost exceeding \$100,000 annually. These cost would funded from the General Revenue Fund.

<u>FISCAL IMPACT - State Government</u>	FY 2012	FY 2013	FY 2014
GENERAL REVENUE FUND			
<u>Costs - Oversight Division</u>			
Program Costs Section 376.1190	<u>(Could Exceed</u> <u>\$100,000)</u>	<u>(Could Exceed</u> <u>\$100,000)</u>	<u>(Could Exceed</u> <u>\$100,000)</u>
ESTIMATED NET EFFECT ON	<u>(Could Exceed</u>	<u>(Could Exceed</u>	<u>(Could Exceed</u>
GENERAL REVENUE FUND	<u>\$100,000)</u>	<u>\$100,000)</u>	<u>\$100,000)</u>
 AMBULANCE PROVIDER TAX			
FUND (Section 190.839)			
<u>Income - Department of Social Services</u>			
Assessment on Medicaid			
Ambulance	<u>\$9,069,225</u>	<u>\$9,069,225</u>	<u>\$9,069,225</u>
Organizations			
<u>Costs - Department of Social Services</u>			
Medicaid Program Costs	<u>(\$9,069,225)</u>	<u>(\$9,069,225)</u>	<u>(\$9,069,225)</u>
ESTIMATED NET EFFECT ON			
AMBULANCE PROVIDER TAX			
FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - State Government
(continued)

FY 2012

FY 2013

FY 2014

**NURSING FACILITY
REIMBURSEMENT ALLOWANCE
TAX FUND** (Section 198.439)Income - Department of Social Services
Assessment on Medicaid Nursing
Facility Organizations\$138,901,260\$138,901,260\$138,901,260Costs - Department of Social Services
Medicaid Program Costs(\$138,901,260) (\$138,901,260)(\$138,901,260)**ESTIMATED NET EFFECT ON
NURSING FACILITY
REIMBURSEMENT ALLOWANCE
TAX FUND**\$0\$0\$0**MANAGED CARE PROVIDER
TAX FUND** (Section 208.437)Income - Department of Social Services
Assessment on Medicaid Managed
Care OrganizationsUnknownUnknownUnknownCosts - Department of Social Services
Medicaid Program Costs(Unknown)(Unknown)(Unknown)**ESTIMATED NET EFFECT ON
MANAGED CARE PROVIDER
TAX FUND**\$0\$0\$0

FISCAL IMPACT - State Government
(continued)

FY 2012

FY 2013

FY 2014

**HOSPITAL REIMBURSEMENT
ALLOWANCE FUND** (Section
208.480)Income - Department of Social Services
Assessment on Medicaid Hospital
Organizations\$919,155,726\$919,155,726\$919,155,726Costs - Department of Social Services
Medicaid Program Costs(\$919,155,726) (\$919,155,726)(\$919,155,726)**ESTIMATED NET EFFECT ON
HOSPITAL REIMBURSEMENT
ALLOWANCE FUND****\$0****\$0****\$0****PHARMACY PROVIDER TAX
FUND** (Section 338.550)Income - Department of Social Services
Assessment on Medicaid Pharmacy
Organizations\$96,500,000\$96,500,000\$96,500,000Costs - Department of Social Services
Medicaid Program Costs(\$96,500,000)(\$96,500,000)(\$96,500,000)**ESTIMATED NET EFFECT ON
PHARMACY PROVIDER TAX
FUND****\$0****\$0****\$0**

FISCAL IMPACT - State Government
(continued)

FY 2012

FY 2013

FY 2014

ICF/MR PROVIDER TAX (Section 633.401)**Income - Department of Social Services**Assessment on Medicaid ICF/MR
Organizations\$2,381,683\$2,381,683\$2,381,683**Costs - Department of Social Services**

Medicaid Program Costs

(\$2,381,683)(\$2,381,683)(\$2,381,683)**ESTIMATED NET EFFECT ON
ICF/MR PROVIDER TAX FUND****\$0****\$0****\$0****FEDERAL FUND****Income - Department of Social Services**

Assessment on Medicaid

Ambulance Organizations

Unknown

Unknown

Unknown

Assessment on Medicaid Nursing

Facility Organizations

\$240,700,000

\$240,700,000

\$240,700,000

Assessment on Medicaid Managed

Care Organizations

Unknown

Unknown

Unknown

Assessment on Medicaid Hospital

Organizations

\$1,605,650,553

\$1,605,650,553

\$1,605,650,553

Assessment on Medicaid Pharmacy

Organizations

\$167,300,000

\$167,300,000

\$167,300,000

Assessment on Medicaid ICF/MR

Organizations

\$4,106,149\$4,106,149\$4,106,149**Total Income - DSS**UnknownUnknownUnknown**Costs - Department of Social Services**

Medicaid Program Cost

UnknownUnknownUnknown**ESTIMATED NET EFFECT ON
FEDERAL FUNDS****\$0****\$0****\$0**

FISCAL IMPACT - Local Government

FY 2012
(10 Mo.)

FY 2013

FY 2014

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Section 191.227:

If said small businesses have cause to periodically or regularly obtain medical records in their regular course of business.

Sections 190.839, 198.439, 208.437, 208.480, 338.550 & 633.401:

the legislation extends several taxes which may impact small businesses such as the ground ambulance service tax, the nursing facility reimbursement allowance, the Medicaid managed care organization reimbursement allowance, the federal reimbursement allowance, pharmacy tax, and the provider of services of intermediate care facility for the mentally retarded or developmentally disabled tax.

FISCAL DESCRIPTION

Section 191.227:

Current law allows a health care provider to condition the furnishing of medical records on the payment of a fee to cover costs of copying, postage and notary services. This legislation provides that the copying amount shall not exceed \$21.36 plus 50 cents for supplies and labor per page plus, if the health care provider has contracted for off-site records storage and management, any additional labor costs of outside storage retrieval, not to exceed \$20, as adjusted annually per the Consumer Price Index.

In instances where the health care provider stores records in an electronic or digital format, and provides the requested records, including any requested affidavits, in an electronic or digital format, the maximum copying amount shall not exceed \$5 plus 50 cents per page, or \$25 total, whichever is less.

FISCAL DESCRIPTION (continued)

Sections 190.839, 198.439, 208.437, 208.480, 338.550 & 633.401:

This legislation extends the sunsets from September 30, 2011 to September 30, 2015, for the Ground Ambulance, Nursing Facility, Medicaid Managed Care Organization, Hospital reimbursement allowance, Pharmacy, and Intermediate Care Facility for the Mentally Retarded Reimbursement Allowance Taxes.

Section 376.1190:

Beginning January 1, 2014, health insurance carriers shall allow a policyholder, upon request, to learn the amount of cost-sharing, including deductibles, copayments and coinsurance, under the policyholder's plan or coverage that the individual would be responsible for paying as to the furnishing of a specific item or service. Such information shall be delivered to the policyholder in a timely manner and at a minimum shall be made available through an internet website or other means for individuals without access to the internet. This provision does not apply to certain supplemental policies.

Any health care benefit proposed by the General Assembly after August 28, 2011, shall be subject to annual review by the Oversight Division of the Joint Committee on Legislative Research to determine the cost impact on private and public payers. The Division shall make a recommendation to the General Assembly on the enactment of the health care benefit mandate proposed.

The provisions regarding health care transparency and the annual review by the Oversight Division shall become effective January 1, 2014.

Section 1:

This legislation contains a nonseverability clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

L.R. No. 0521-07

Bill No. Truly Agreed To and Finally Passed HCS for SS No. 2 for SCS for SB 62

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SOURCES OF INFORMATION

Department of Insurance, Financial Institutions and Professional Registration

Joint Committee on Legislative Research-Oversight Division

University of Missouri

Office of the Secretary of State

Office of Administration-Budget and Planning

Missouri State Treasurer

Department of Social Services

Department of Health and Senior Services

Department of Mental Health

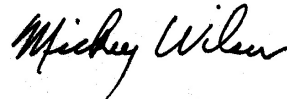
Department of Revenue

Department of Highways and Transportation

Missouri Consolidated Health Care Plan

Department of Conservation

Missouri State Highway Patrol



Mickey Wilson, CPA

Director

June 17, 2011